

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MAURICE DELANE DAVIS,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-10-958-F
)	
THOMAS GOFORTH, M.D., et al.,)	
)	
Defendants.)	

ORDER

On November 30, 2010, United States Magistrate Judge Bana Roberts issued a Report and Recommendation, wherein she recommended that plaintiff's complaint pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), be dismissed without prejudice for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). Magistrate Judge Roberts also recommended that the paper labeled as a Writ of Mandamus/or and Otherwise Motion to Execute Sentence in the Plight of a Binding Liberty Interest and appended to the complaint be stricken and that plaintiff be advised that if he wishes to pursue a claim based on the allegations in the paper, he must do so through a separate action.

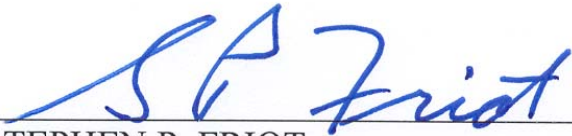
Magistrate Judge Roberts advised plaintiff of his right to file objections to the Report and Recommendation by December 20, 2010 and further advised that failure to make timely objection to the Report and Recommendation waives his right to appellate review of both factual and legal issues therein contained.

To date, plaintiff has not filed any objections to the Report and Recommendation and has not requested any extension of time to so file objections.

The record reflects that the Report and Recommendation mailed to plaintiff at the last known address was returned undeliverable. Under Rule 5.4(a) of the the court's Local Civil Rules, papers sent by the court to the last known address are deemed delivered. As plaintiff has not objected to the Report and Recommendation within the time prescribed and has not requested any extension of time to file objections, the court accepts, adopts and affirms the Report and Recommendation.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Bana Roberts on November 30, 2010 (doc. no. 24) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Plaintiff's complaint under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1). The paper labeled as a Writ of Mandamus/or and Otherwise Motion to Execute Sentence in the Plight of a Binding Liberty Interest and appended to the complaint is **STRICKEN**. If plaintiff wishes to pursue a claim based on the allegations in that paper, he must do so through a separate action.

DATED December 21, 2010.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE